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AF/3681

JUN 10 2004

GROUP 300

25 May, 2004

To: The Commissioner for Patents and Trademarks

I am Gary C. Johnson, patent application # 10/021,656.

The decision of the petition of 14 May, 2004 (included in this package), was an incomplete picture.

Here are the remaining infractions by the examiner:

(1) The Office of Initial Patent Examination nor the primary examiner ever pointed out my drawing errors, nor ever pointed out that my "description of the Invention" was very incomplete.

(2) The examiner never indicated or tried to point out any allowable subject matter; though the invention and it's advantages were obviously understood by him.

(3) The examiner tried very hard to mislead me in how write claims.

The instructions of the first Office Action were obviously a bogus "form paragraph". My first claims (1,2,3) could in no way be construed as "replete". My claims (original claims 1,2,3) consists of only seventy words.

(4) I have been purposely misinformed of which mail stops and forms to use. I sent my first amendment four different times. I faxed the fourth package in. I discovered that the fax numbers were wrong (see the first and second Office Action). The fax numbers were corrected after I mentioned it.

(5) Notice the deception in the third Office Action, the so called "new matter".

I found that the term "new matter" actually refers to "new subject matter".

I know that for an examiner to refer to a drawing correction as new matter, is bogus and malicious. Any alleged new subject matter would evidently and/or eventually be substantiated and appear as written material. In other words a drawing changes / corrections in itself could only be construed as possible / potential "new matter"; being dependant upon the specification and/or the claims of the invention. I also realized that according to MPEP 2144.01 - Implicit Disclosure and MPEP- 2144.03-Reliance on Common Knowledge in the Art or "Well Known" Prior Art, that just as an examiner can rely on cited references to challenge an application.

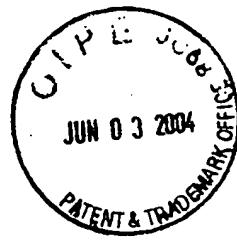
The applicant can also rely on the cited references of his own application to substantiate, rectify, and clarify; any changes, informalities, and misunderstandings of his application. I was preparing a defense (based on MPEP 2144.01; 2144.03), to the anticipated attack concerning the so called "new matter". It was only then, that I realized that the two references cited in my application were not included in my published application. Fortunately I noticed this before beforehand. I will include a copy of the original (page 1 of 8). It is stamped by the PTO and examiner initialed.

(6) In actuality and reality, a patent application is quite amendable up until the point of "Allowance of the Application". The essence and nature of an examination, is to assist the applicant in putting his or her application in order for "Allowance". The broadest and most possible allowances of the scope of specification and/or the claims is given by the Patent Office. This is to avoid unnecessary infringement. My application was amended just after the amendment system was changed, but it could have still been examined for allowable subject matter. Furthermore, consider how much more time the above said errors have cost me. I estimate the examiner has cost me an extra year and a half in the furthering of my patent application. The so called petition of May 14; 2004, was not a petition at all neither was it's format. It is for the purpose of deceit. I submitted a complaint, as I am doing now.

I have spoken to the examiner; Dirk Wright, on several occasions. I know very well that he has years of experience (by his name on patents, as examiner). I also know, that his demeanor does not indicate someone capable of outright deceit. Besides, to constrict an application completely, would require the effort of many. We know how extremely valuable this invention is (p.a.c.t.-differential). We know that at least one-hundred inventors around the world have tried to improve, what I have perfected. It is the world's first and only, fully gear driven positive traction differential. Eliminating the need for a posi-tract rear end, and yet enabling the same said drive wheels variable rotation when needed. Having inherent anti roll-back capabilities. The p.a.c.t. differential, not having any external parts nor use of hydraulic, pneumatic, or clutch mechanisms. This p.a.c.t. differential is designed to have no greater diameter than what is conventional. It would eliminate the the need for limited-slip differentials and locking differentials. It therefore, would become as as common as intermittent wipers.

I will not be robbed as some others in past history have been. I know of my incrimination. I am able to for give all, just as I have been forgiven. I will also write the chamber of commerce, using this same letter.

Gary C. Johnson
611 Chene
Det. MI. 48207



To whom it may concern.

I will send this same letter (revised)
to the U. S. Dept of Commerce.

I do not really expect any results from
either of you. I am gearing up for
public presentation of the facts.

Catch me before or catch me after,
but I will no longer play your game.

I would let the matter go. If
this patent application were examined
promptly for merit, but I will not
waste my time, or hold my breath.

Notice of References Cited

JUN 03 2004

Application/Control No.
10/021,656

Applicant(s)/Patent Under
Reexamination
JOHNSON, GARY CARLTON

Examiner
Dirk Wright

Art Unit
3681

Page 1 of 1

U.S. PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-5176589-A	01-1993	Borgudd	475/211
B	US-5785622-A	07-1998	Perry	475/84
C	US-6120407-A	09-2000	Mimura	475/225
D	US-			
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

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FOREIGN PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
O					
P					
Q					
R					
S					
T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)

Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 14 2004



Gary Johnson
2064 Lafayette
Detroit, MI 48207

In re Application of
Gary Johnson
Serial No: 10/021,656
Filed: December 12, 2001
For: JOHNSON-POSITIVE ACTION CONTINUOUS
TRACTION (P.A.C.T.) VEHICLE DIFFERENTIAL

MAILED

MAY 14 2004

OFFICE OF THE DIRECTOR
TC 3600

DECISION ON PETITION
UNDER 37 CFR 1.181

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JUN 10 2004

GROUP 3600

This is a decision on the Petitions under 37 CFR 1.181 filed April 1 and 5, 2004 for Supervisory Review of the final rejection mailed October 16, 2003.

The petition is **GRANTED** to the extent indicated below.

A review of the application file history reveals that a first Office action was mailed January 10, 2003 in which the examiner rejected claims 1-3 under 35 U.S.C. 112 and 35 U.S.C. 102. An amendment was received on February 25, 2003 in response to the Office action mailed January 10, 2003, which canceled claims 1-3 and added claims 4-6. Another Office action was mailed May 5, 2003 objecting to the drawings and rejecting claims 4-6 under 35 U.S.C. 112. A handwritten amendment was received July 31, 2003 in response to the May 5, 2003 Office action, which amended the drawings, added a new section to the specification, canceled claims 4-6 and added claims 7-8. A final rejection was mailed October 16, 2003 that: refused entry of the amended drawing based on new matter; refused entry of the changes to the specification as not complying with 37 CFR 1.125 because a statement was not included that the new specification did not include new matter and a marked up copy of the new specification was not included; refused entry of the amendment to the claims canceling claims 4-6 and adding claims 7-8 because the handwritten text was not double spaced and was hard to read; and again rejecting claims 4-6 under 35 U.S.C. 112. A Notice of Appeal was filed December 11, 2003 and an improper Appeal Brief was filed December 30, 2003. An amendment was received March 16, 2004 amending the drawings, adding a new section to the specification, providing a statement that the new section of the specification does not include new matter, canceling claims 4-6 and adding claims 7-8. An amendment was received April 12, 2004 which appears to be a duplicate of the March 16, 2004 amendment.

With regard to the October 16, 2003 final rejection, the examiner acted properly in refusing entry of the amendments to the drawings until the question of new matter is settled. See MPEP 714.19. The examiner erred in refusing to enter the added section (paragraphs) to the specification. The section applicant wishes added is not a substitute specification. Therefore the amendment to the specification does not fall under 37 CFR 1.125 and does not require a marked

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

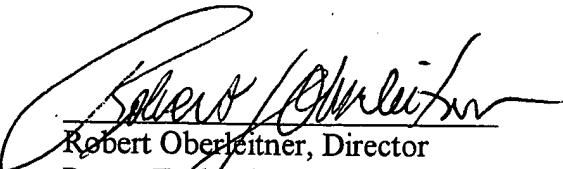
up copy. It should fall under 37 CFR 1.121(b)(1). The examiner also erred in his handling of the July 31, 2003 amendment to the claims by refusing entry of the amendment to the claims, acting on the previously presented claims 4-6 and making his action final. Again, the amendment to the claims must also comply with 37 CFR 1.121(c). See MPEP 714.

The amendments to the specification and claims filed July 31, 2003 should have been refused entry on the basis of their being non-compliant with 37 CFR 1.121. No instruction was provided which unambiguously identifies the location to add the new section. Also, the request to delete the sentence from the "Detailed Description of the Drawing" is improper and should be done by deletion and replacement of the paragraph. See 37 CFR 1.121(b)(1). An amendment to the claims must include a complete listing of all claims in the application and the status of each claim indicated in a parenthetical expression after each claim number. See MPEP 714, III, 3. A Notice of Non-Compliant Amendment should have been sent to applicant setting a time limit of one month for reply during which time applicant would have the opportunity to correct the problems with his amendment under 37 CFR 1.121.

By the examiner not having a Notice of Non-compliant Amendment sent to applicant and directing the final Office action to claims 4-6, the final rejection mailed October 16, 2003 was improper. Therefore the October 16, 2003 final rejection is hereby vacated. Since the final rejection was improper, applicant should not have been forced to file a Notice of Appeal and its required fee. Therefore, the fee for the Notice of Appeal will be refunded to applicant.

This file will be forwarded to the Supervisory Legal Instruments Examiner to vacate the final rejection of October 16, 2003, refund the fee for the Notice of Appeal and provide applicant with a Notice of Non-compliant Amendment for the amendments applicant has filed July 31, 2003, March 18, 2004.

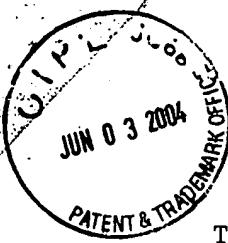
SUMMARY: The petition is **GRANTED** to the extent indicated.



Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134



pp:cm:5/13/04



1449 Form

THE POSITIVE ACTION CONTINUOUS TRACTION DIFFERENTIAL

10/021656
12/12/01
JC564 U.S. PTO

Field of SEARCH

475/252

REFERENCES CITED

U. S. Patent Documents

4/916,978 4/1990: Razelli 475/252
3/768,336 10/1973 wharton

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DIRK WRIGHT
PRIMARY EXAMINER
ART UNIT 352 3601

Dirk Wright 1/9/03